

02-17-04

HDP/SB/21 based on PTO/SB/21 (08-00)

Please type a plus sign (+) inside this box → ☐**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

| | | | |
|---|-----------------------------|-------------------------------|-----------------|
| TRANSMITTAL FORM (to be used for all correspondence after initial filing) | Application Number | 10/721,960 | |
| | Filing Date | November 25, 2003 | |
| | First Named Inventor | Doncov et al. | |
| | Group Art Unit | not yet assigned | |
| | Examiner Name | not yet assigned | |
| Total Number of Pages in This Submission | | Attorney Docket Number | 5362-000451/COD |

ENCLOSURES (check all that apply)

| | | |
|---|--|---|
| <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Form 1449; copies of 11 foreign references; copy of 1 other reference; and return postcard. |
| Remarks | | The Commissioner is hereby authorized to charge any additional fees that may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 50-0275. A duplicate copy of this sheet is enclosed. |

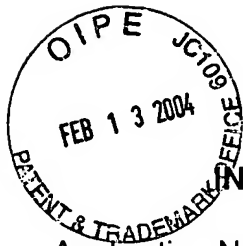
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | | | |
|--|----------------------------------|---|-------------------------------------|
| Firm or Individual name | Harness, Dickey & Pierce, P.L.C. | Attorney Name Monte L. Falcoff Michael J. Lang | Reg. No. 37,617 51,120 |
| Signature | | | |
| Date | February 13, 2004 | | |

CERTIFICATE OF MAILING/TRANSMISSION

| | | | |
|---|------------------|-----------------------------------|-------------------------------|
| I hereby certify that this correspondence is being deposited with the United States Postal Service as express mail in an envelope addressed to: Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date indicated below. | | | |
| Typed or printed name | Monte L. Falcoff | Express Mail Label No. | EV 406 074 515 US (2/13/2004) |
| Signature | | Date | Febr. 13, 2004 |

EV 406 074 515 US



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/721,960
Filing Date: November 25, 2003
Applicant: Doncov et al.
Group Art Unit: not yet assigned
Examiner: not yet assigned
Title: Automotive Vehicle with Open Air System
Attorney Docket: 5362-000451/COD

Director of the United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Sir:

Pursuant to 37 C.F.R. §§ 1.56, 1.97 and 1.98, Applicant hereby submits an Information Disclosure Statement for consideration by the Examiner.

I. **LIST OF PATENTS, PUBLICATIONS, AND OTHER INFORMATION**

The patents, publications and other information requested to be considered by the Office (except unpublished U.S. patent applications) are listed on Form 1449 attached hereto.

II. **COPIES**

A. ____ Submitted herewith is a legible copy of (i) each U.S. patent application publication and U.S. and foreign patent; (ii) each publication or that portion which caused it to be listed; (iii) for each cross-referenced pending U.S. application listed below in Section IV, the application specification including the claims, and any drawing of the application which caused it to be listed including the claims directed to that portion; and (iv) all other information or that portion which caused it to be listed.

B. ____ Any patents, publications or other information which are listed on Form 1449 or on the copies of PTO-892, but which are not enclosed herewith, were previously cited by or submitted to the PTO in one of the following applications which has been relied upon for an earlier filing date under 35 U.S.C. § 120:

C. X Because the present application was/is being filed after June 30, 2003, no copies of the U.S. patents or U.S. patent application publications which are listed on the attached Form 1449 are enclosed pursuant to the waiver of 37 C.F.R. § 1.98(a)(2)(i). Any foreign patent documents or non-patent literature listed on the attached Form 1449 are enclosed herewith.

D. ____ This is a PCT application in the entry of the National Phase in the United States. A copy of the International Search Report is attached for the Examiner's information. The documents listed on the International Search Report are listed on the attached Form-1449 for consideration by the Examiner and for listing on any patent resulting from this application. If the International Search Report was from the US, EPO, or JPO search authorities, copies of these references should have been supplied to the USPTO under the trilateral agreement and are believed to be in the file of the above-identified application. (MPEP 1893.03(g))

III. CONCISE EXPLANATION OF THE RELEVANCE (check at least one box)

A. X Except as may be indicated below in (B), all of the patents, publications or other information are in the English language (concise explanation not required).

B. X A concise explanation of the relevance of each patent, publication or other information listed that is not in the English language is as follows (see 37 C.F.R. § 1.98(a)(3)):

1. ____ See the attached foreign patent office communication from a counterpart foreign application.
2. ____ English translations are provided.
3. X Other:

DE 3816060: This invention appears to relate to a passenger vehicle with a two part hard top comprising a shell shaped rear hard top part and a center part which can be inserted between the front roof seal of the vehicle body and the rear hard top part. In order to have the two hard top parts constantly available in the passenger vehicle and hence to be able to convert the passenger vehicle easily from a coupe into a targa or a cabriolet and vice versa, the invention envisages that the rear hard top part be mounted on the vehicle body in a manner such that it can pivot about at least two pivots arranged transversely with respect to the longitudinal axis of the vehicle and arranged at a distance from each other in the longitudinal axis of the vehicle and such that it can at the same time be moved linearly in the longitudinal axis of the vehicle.

DE 19756021: This invention appears to relate to a roof with two rigid cover panels which are extendible and retractable to open and close the roof opening. There are water drains arranged along the edges of the roof opening and a foldable ceiling panel under the roof cover. The upper side of the ceiling panel is

made water repellant. The ceiling panel is laterally overlapped by the water drains. The panel is attached to the cover panels.

DE 4443525: This invention appears to relate to an arrangement for sealing one or more movable roof panels arranged one behind the other. An elongated compliant sealing member with a bead at the free end is fixed to the front lip of a drainage channel running across the front of the rearmost of any two roof panels and is naturally in a raised condition to act as a splash guard when the roof is open. When the roof is closed, an extension of the top surface of the front of any two panels engages the seal below the bead and urges it into a horizontal position with the tip of the sealing member engaging a notch in the top surface of the rear panel to close and seal the drain channel and the joint between the two panels. An additional hollow cross sectional sealing member may also engage the underside of the extension to form a further drainage channel. U.S. Patent No. 5,727,839 appears to be an equivalent to this German patent.

EP 0992384: This invention appears to relate to the roof of a vehicle consisting of two sections lying one behind the other in the closed state and which are separately movable in the direction of the vehicle's longitudinal axis and then lying one on top of the other can be guided into the rear window frame which smoothly continues the contour of the vehicle's side frame. The rear window frame can swing down onto a hat rack provided behind the rear seat and in this position a facility is provided to prevent rain water from entering the luggage space lying beneath these elements.

DE 10025051: This invention appears to relate to the car having a sunshine roof which extends across its whole width between the side struts. It is mounted in guide rails on either side and slides back onto the rear window, both components then sliding back over the boot, which can still be opened for access. U.S. Patent No. 6,672,658 appears to be an equivalent to this German application.

EP 0999079: This invention appears to relate to the automobile having a rigid roof section which cooperates with side guides for rearward movement into an open position and a rear windscreen moved into a lowered position between C-column sections of the roof frame. The side guides for the rigid roof section are enclosed by the C-column sections when the rigid roof section is in the rear position.

DE 4320492: This invention appears to relate to a lowerable rear window for vehicle roof construction, in particular for a folding top for cabriolets, with a frame which delimits a window opening in a rear wall of the roof construction and in which the rear window engages in this in-use position, with a storage space which is recessed into the vehicle body below the rear wall of the roof construction and in which the rear window is lowered in a not-in-use position set up at a steeper angle than its inclined in-use position, and with a lowering guidance by way of guides which are arranged at the sides of the rear window in the storage space and in whose approximately straight guide track there runs a guide means for the assigned rear window side. In order to be able to reduce the technical complexity for the lowering guidance, prior to being inserted into the

storage space, the rear window can be set up into the vehicle transverse plane of its not-in-use position and when being lowered into the storage space is guided such that it slides along this transverse plane, guide means connected non-movably to the rear window interacting with guide tracks parallel to the vehicle transverse plane.

FR 2818931: This invention appears to relate to a folding roof for a vehicle comprising a rigid front roof element, a rigid intermediate roof element and a rigid rear roof element. The displacement of the rear element towards the rear deck is guided by fingers borne by the rear part of the rear element and slidably engaged in the slide rails extending inside the deck. The displacement of the intermediate element and the front element is guided by the slide rails borne by two adjacent roof elements and by fingers engaged in said slide rails and borne by two other adjacent roof elements, enabling the front element and the intermediate element to slide toward each other and to slide towards the rear element so that the three elements can be superimposed.

EP 0992384: This invention appears to relate to the roof of a vehicle consisting of two sections lying one behind the other in the closed state and which are separately movable in the direction of the vehicle's longitudinal axis and then lying one on top of the other can be guided into the rear window frame which smoothly continues the contour of the vehicle's side frame. The rear window frame can swing down onto a hat rack provided behind the rear seat and in this position, a facility is provided to prevent rain water from entering the luggage space lying beneath these elements.

FR 2744979: This invention appears to relate to the tipping mechanism consisting of a deformable parallelogram which connects the rear window and a movable carriage. The carriage translates on a main support connected to the bodywork. The parallelogram is constituted by a support connected to the rear window, an arm of a compensator and a rod. The arm and rod are pivoted by their respective ends about upper transverse spindles carried by the support. The lower ends of the arm and rod pivot about lower transverse spindles connected to the carriage. The carriage is mounted on the main support by guide spindles with a spring connected between the carriage and the support. The carriage engages a control cam rotating about a spindle carried by the main support.

FR 2797817: This invention appears to relate to a vehicle having a soft roof covering the passenger compartment and sliding along curved rails at the top of the body sides to stow at the rear of the vehicle when folded. It also has a folding rear panel with a window which is located above an opening tailgate and is fixed in the deployed position by side bolts. When the roof is not required, it is slid in folds to the back of the vehicle body and stowed beneath the floor behind the vehicle's rear seats together with the rear window panel by means of a lever and cylinder mechanism.

JP 5024437: This invention appears to show a pair of moveable sunroof panels coupled to tracks and being cable driven.

C. X The following additional information is provided for the Examiner's consideration.

The following references appear somewhat more relevant than the others cited herein: U.S. Patent No. 6,419,308; U.S. Patent No. 6,672,658; EP 0992384; and FR 2797817. Notwithstanding, the Examiner is requested to review all of the cited references and make his/her own relevancy determination.

It is also believed that a 1965 or 1966 model year Mercury Parklane (offered for sale around 1965 or 1966) had a backlite which dropped vertically along a track and a fixed hard roof. This vehicle is not believed to have had a tonneau cover to cover the retracted backlite.

Terracross brochure, January 2001, North American Auto Show, Detroit, Michigan.

IV. CROSS REFERENCE TO RELATED APPLICATION(S)

A. X The Examiner is advised that the following co-pending application(s) contain(s) subject matter that may be related to the present application. By bringing this(these) application(s) to the Examiner's attention, Applicant(s) does(do) not waive the confidentiality provisions of 35 U.S.C. § 122.

| <u>Serial No.</u> | <u>Filing Date</u> | <u>Art Unit</u> |
|-------------------|--------------------|-----------------|
| 10/721,620 | November 25, 2003 | unknown |
| 10/721,650 | November 25, 2003 | unknown |

V. THIS IDS IS BEING FILED UNDER

A. X **37 C.F.R. § 1.97(b)**: (check only one box)

1. within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d) (37 C.F.R. § 1.97(b)(1)). No fee or certification is required.

2. within three months of the date of entry of the national stage as set forth in §1.491 in an international application (37 C.F.R. § 1.97(b)(2)). No fee or certification is required.

3. X before the mailing of a first Office Action on the merits (37 C.F.R. § 1.97(b)(3)). No fee or certification is required. In the event that a first Office Action on the merits has been issued, please consider this IDS under 37 C.F.R. § 1.97(c) and see the certification under 37 C.F.R. § 1.97(e) below; or, if no certification has been made, charge our deposit account a fee in the amount of \$180.00 as required by 37 C.F.R. § 1.17(p).

4. ____ before the mailing of a first Office Action after the filing of a request for continued examination under 37 C.F.R. § 1.114. No fee or certification is required.

B. ____ **37 C.F.R. § 1.97(c):** (check only one box)

before the mailing date of either any Final Office Action under 37 C.F.R. § 1.113, a Notice of Allowance under 37 C.F.R. § 1.311, or an action that otherwise closes prosecution.

1. ____ No certification; therefore, a fee in the amount of \$180.00 is required by 37 C.F.R. § 1.17(p).

2. ____ See the certification below. No fee is required.

C. ____ **37 C.F.R. § 1.97(d):**

after the mailing date of either a Final Office Action under 37 C.F.R. § 1.113 or a Notice of Allowance under 37 C.F.R. § 1.311, yet on or before payment of the issue fee.

1. ____ See the certification below. A fee in the amount of \$180.00 is required by 37 C.F.R. § 1.17(p).

VI. **CERTIFICATION UNDER 37 C.F.R. § 1.97(e):** (check only one box)

The undersigned hereby certifies that:

A. ____ each item of information contained in this IDS was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS (See 37 C.F.R. § 1.97(e)(1)). See further statement under 37 C.F.R. § 1.704(d) below in section VII, if applicable; or

B. ____ no item of information contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this IDS (See 37 C.F.R. § 1.97(e)(2)).

C. ____ Some of the items of information were first cited in a communication from a foreign patent office. As to this information, the undersigned hereby certifies that each item of information contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS. As to the remaining information, the undersigned hereby certifies that no item of this remaining information contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this IDS was

known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this IDS.

VII. STATEMENT UNDER 37 CFR 1.704(d)

The undersigned hereby states that:

___ each item of information contained in this IDS was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of this IDS.

VIII. PAYMENT OF FEES (check only one box)

A. ___ A check in the amount of \$180.00 is enclosed for the above-identified fee.

B. ___ Please charge Deposit Account No. 50-0275 in the amount of \$180.00 for the above-indicated fee. A duplicate copy of this paper is attached.

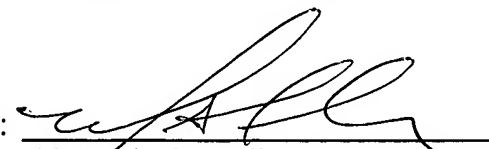
The above references are being cited only in the interest of candor and without any admission that they constitute statutory prior art, contain matter which anticipates the invention, or which would render the same obvious, either singly or in combination, to a person of ordinary skill in the art. Furthermore, this Information Disclosure Statement shall not be construed as a representation that a search has been made.

If it is determined that this IDS has been filed under the wrong rule, the PTO is requested to consider this IDS under the proper rule (with a petition if necessary) and charge the appropriate fee to Deposit Account No. 50-0275.

Please charge any additional fees or credit any overpayment pursuant to 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. 50-0275.

Respectfully submitted,

Dated: February 13, 2004

By: 
Monte L. Falcoff, Reg. No. 37,617
Michael J. Lang, Reg. No. 51,120

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600
MLF/MJL/csd



FORM HDP-1449 (Based on Form PTO-1449)

**PATENT AND TRADEMARK OFFICE
INFORMATION DISCLOSURE CITATION**

(Use several sheets if necessary)

Sheet 1 of 3

ATTORNEY DOCKET No.

SERIAL No.

5362-000451/COD

10/721,960

APPLICANT

Doncov et al.

FILING DATE

GROUP

November 25, 2003

not yet assigned

U.S. PATENT DOCUMENTS

| Ref. Desig. | Examiner's Initials | Document Number | Date | Name | Class/ Subclass | (If appropriate) Filing Date |
|----------------|------------------------|--------------------|---------|------------------|--------------------|---------------------------------|
| 1. | | 2,215,363 | 9/1940 | Ruppel et al. | | |
| 2. | | 2,436,728 | 2/1948 | Parsons | | |
| 3. | | 2,596,355 | 5/1952 | Ackermans | | |
| 4. | | 2,704,225 | 3/1955 | Anschuetz et al. | | |
| 5. | | 2,714,035 | 7/1955 | Limberg et al. | | |
| 6. | | 2,747,921 | 5/1956 | Hooverson et al. | | |
| 7. | | 2,747,923 | 5/1956 | McLean | | |
| 8. | | 2,762,648 | 9/1956 | Huzzard | | |
| 9. | | 2,782,070 | 2/1957 | Chaban | | |
| 10. | | 2,785,922 | 3/1957 | Chika | | |
| 11. | | 2,836,457 | 5/1958 | Beerman et al. | | |
| 12. | | 2,957,725 | 10/1960 | Ford II et al. | | |
| 13. | | 3,332,169 | 7/1967 | Lohr et al. | | |
| 14. | | 3,333,362 | 8/1967 | Kostin et al. | | |
| 15. | | 3,347,592 | 10/1967 | Renneker | | |
| 16. | | 3,357,738 | 12/1967 | Bourlier | | |
| 17. | | 3,823,977 | 7/1974 | Fioravanti | | |
| 18. | | 4,543,747 | 10/1985 | Kaltz et al. | | |
| 19. | | 4,852,935 | 8/1989 | Varner | | |
| 20. | | 4,854,634 | 8/1989 | Shiraishi et al. | | |
| 21. | | 5,018,783 | 5/1991 | Chamings et al. | | |

Examiner:

Date Considered:

EXAMINER: Please initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



FORM HDP-1449 (Based on Form PTO-1449)

**PATENT AND TRADEMARK OFFICE
INFORMATION DISCLOSURE CITATION**

(Use several sheets if necessary)

Sheet 2 of 3

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10/721,960

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U.S. PATENT DOCUMENTS

| Ref. Desig. | Examiner's Initials | Document Number | Date | Name | Class/ Subclass | (If appropriate) Filing Date |
|-------------|---------------------|-----------------|---------|------------------|-----------------|------------------------------|
| 22. | | 5,029,937 | 7/1991 | Yamamoto | | |
| 23. | | 5,078,447 | 1/1992 | Klein et al. | | |
| 24. | | 5,090,764 | 2/1992 | Kogawa et al. | | |
| 25. | | 5,103,382 | 4/1992 | Kondo et al. | | |
| 26. | | 5,119,068 | 6/1992 | Nagai et al. | | |
| 27. | | 5,165,772 | 11/1992 | Wu | | |
| 28. | | 5,197,779 | 3/1993 | Mizuno et al. | | |
| 29. | | 5,727,839 | 3/1998 | Ruhringer et al. | | |
| 30. | | 5,746,475 | 5/1998 | Caye et al. | | |
| 31. | | 5,944,378 | 8/1999 | Mather et al. | | |
| 32. | | 5,951,100 | 9/1999 | Ewing et al. | | |
| 33. | | 5,961,177 | 10/1999 | Caye et al. | | |
| 34. | | 5,975,620 | 11/1999 | Jambor et al. | | |
| 35. | | 5,975,820 | 11/1999 | Kirchen | | |
| 36. | | 6,419,308 | 7/2002 | Corder et al. | | |
| 37. | | 6,485,094 | 11/2002 | Corder et al. | | |
| 38. | | 6,641,202 | 11/2003 | Graf et al. | | |
| 39. | | 6,648,397 | 11/2003 | Schutt et al. | | |
| 40. | | 6,648,405 | 11/2003 | Bunsmann et al. | | |
| 41. | | 6,672,638 | 1/2004 | Corder et al. | | |

Examiner:

Date Considered:

EXAMINER: Please initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



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Sheet 3 of 3

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10/721,960

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|-------------|---------------------|-----------------|--------|-------------|-----------------|------------------------------|
| 42. | | 6,672,658 | 1/2004 | De Gaillard | | |

FOREIGN PATENT DOCUMENTS

| Ref. Desig. | Examiner's Initials | Document Number | Date | Country | Class/ Subclass | Translation Yes | No |
|-------------|---------------------|-----------------|---------|---------|-----------------|-----------------|----|
| 1. | | DE 3816060 | 11/1989 | Germany | | Abstract | |
| 2. | | DE 19756021 | 12/1998 | Germany | | Abstract | |
| 3. | | DE 4443525 | 2/1996 | Germany | | Abstract | |
| 4. | | EP 0992384 | 4/2000 | Europe | | Abstract | |
| 5. | | DE 10025051 | 11/2001 | Germany | | Abstract | |
| 6. | | EP 0999079 | 5/2000 | Europe | | Abstract | |
| 7. | | DE 4320492 | 10/1994 | Germany | | Abstract | |
| 8. | | FR 2818931 | 7/2002 | France | | Abstract | |
| 9. | | FR 2744979 | 8/1997 | France | | Abstract | |
| 10. | | FR 2797817 | 3/2001 | France | | Abstract | |
| 11. | | JP 5024437 | 2/1993 | Japan | | Abstract | |

OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, etc.)

| Ref. Desig. | Examiner's Initials | |
|-------------|---------------------|---|
| 1. | | Terracross brochure, January 2001, North American Auto Show, Detroit, Michigan. |

Examiner:

Date Considered:

EXAMINER: Please initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.